

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 345

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO DOMESTIC AFFAIRS; PROVIDING FOR A COURT PROCEEDING
TO ENFORCE A CUSTODY, TIME-SHARING OR VISITATION ORDER;
PROVIDING REMEDIES; ENACTING A NEW SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new Section 40-4-9.2 NMSA 1978 is enacted to
read:

"40-4-9.2. [NEW MATERIAL] ENFORCEMENT OF CUSTODY, TIME-
SHARING OR VISITATION ORDER. --

A. A court order concerning custody, time-sharing
or visitation arrangements shall be enforced by a verified
motion filed with the court by either party pursuant to the
provisions of this section.

B. The court shall provide such forms as are
necessary for a party to file a motion for an order to show

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underscored material = new
[bracketed material] = delete

1 cause for a violation of a custody, time-sharing or visitation
2 order. A motion, seeking an order of contempt, shall be
3 verified or have an affidavit attached setting forth the
4 relevant order governing the conduct of the parties and the
5 alleged specific act that violated the order. The court, upon
6 reviewing the motion, may issue an order to show cause why the
7 answering party should not be held in contempt at a hearing to
8 be held as expeditiously as possible, but not later than thirty
9 days, after the filing of the motion. The order shall be
10 personally served upon the answering party.

11 C. If a court finds that a party has violated a
12 custody, time-sharing or visitation order, the court may find
13 the party in contempt and may issue such further orders as are
14 in the best interest of the child, including, among other
15 remedies:

16 (1) imposing additional terms and conditions
17 consistent with the court's previous order;

18 (2) modifying the prior order to meet the best
19 interests of the child;

20 (3) requiring the violator to post bond or
21 security to ensure further compliance;

22 (4) requiring that makeup visitation or time-
23 sharing be provided the aggrieved party or child within one
24 year after the noncompliance but consistent with the type and
25 duration that is in the best interests of the child;

1 (5) imposing a fine or jail sentence on the
2 violator;

3 (6) scheduling a hearing for modification of
4 custody or time-sharing to consider all relevant information;

5 (7) awarding the actual expenses, including
6 reasonable attorney fees and costs incurred by an aggrieved
7 party because of the violation; or

8 (8) providing a plan for overseeing and
9 supervising the custody, time-sharing or visitation plan by a
10 court-approved volunteer, guardian ad litem, court clinic
11 professional or other qualified person. "